

**UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF OKLAHOMA**

JAMES ROBERT BLANCHARD,)	
)	
Plaintiff,)	
)	
v.)	Case No. CIV-22-858-G
)	
STATE OF OKLAHOMA, et al.,)	
)	
Defendant.)	

ORDER

Plaintiff James Robert Blanchard, a state prisoner appearing pro se, filed a Complaint (Doc. No. 1), alleging deprivations of his constitutional rights against multiple defendants. In accordance with 28 U.S.C. § 636(b)(1), the matter was referred to Magistrate Judge Suzanne Mitchell for initial proceedings.

On September 29, 2022, Judge Mitchell ordered Plaintiff to either pay the required \$402 filing fee for a civil rights action or move for leave to proceed *in forma pauperis* by October 20, 2022. *See* Order to Plaintiff to Cure Deficiencies (Doc. No. 8). Plaintiff did not cure these deficiencies or otherwise respond within the time prescribed. On October 31, Judge Mitchell entered a Report and Recommendation (Doc. No. 9), recommending that the Court dismiss this case without prejudice pursuant to Federal Rule of Civil Procedure 41(b) for Plaintiff's failure to comply with court order. *See id.* at 2-3.

Within the time allowed for objections, Plaintiff filed a Motion for Leave to Proceed *In Forma Pauperis* (Doc. No. 10). In that Motion, Plaintiff includes a certified copy of his institutional account statement. The certification indicates that Plaintiff lacks sufficient

resources to pay the \$402 required to initiate a civil rights action. Plaintiff's submission indicates, however, that he may be seeking to instead initiate a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254, which would require a filing fee of \$5 – an amount he could pay.

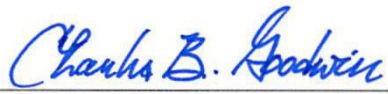
Liberally construed, the Court finds that Plaintiff has made a good-faith attempt to comply with the Court's orders regarding the filing fee and to prosecute this matter. The Court therefore will re-refer this action to Judge Mitchell for all purposes permitted by 28 U.S.C. § 636, including to determine the nature of Plaintiff's claim and evaluate whether Plaintiff meets the requirements to proceed on that claim.

CONCLUSION

Accordingly, the reasoning of the Report and Recommendation (Doc. No. 9) is ADOPTED. The Court declines to dismiss this matter at this time.

This matter is re-referred to Judge Mitchell in accordance with the initial order of referral.

IT IS SO ORDERED this 27th day of March, 2023.



CHARLES B. GOODWIN
United States District Judge